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HOUSE BILL 112

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Thomas E. Swisstack

AN ACT

RELATING TO ABUSE OF A CHILD; PROVIDING THAT ALLOWING A CHILD TO BE IN A MOTOR VEHICLE, BUILDING OR OTHER PREMISES USED FOR THE MANUFACTURE OF CONTROLLED SUBSTANCES IS PRIMA FACIE EVIDENCE OF ABUSE OF A CHILD; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-6-1 NMSA 1978 (being Laws 1973, Chapter 360, Section 10, as amended by Laws 2001, Chapter 31, Section 9 and by Laws 2001, Chapter 132, Section 9) is amended to read:

"30-6-1. ABANDONMENT OR ABUSE OF A CHILD. --

A. As used in this section:

(1) "child" means a person who is less than eighteen years of age;

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1 (2) "neglect" means that a child is without
2 proper parental care and control of subsistence, education,
3 medical or other care or control necessary for his well-being
4 because of the faults or habits of his parents, guardian or
5 custodian or their neglect or refusal, when able to do so, to
6 provide them; and

7 (3) "negligently" refers to criminal
8 negligence and means that a person knew or should have known of
9 the danger involved and acted with a reckless disregard for the
10 safety or health of the child.

11 B. Abandonment of a child consists of the parent,
12 guardian or custodian of a child intentionally leaving or
13 abandoning the child under circumstances whereby the child may
14 or does suffer neglect. Whoever commits abandonment of a child
15 is guilty of a misdemeanor, unless the abandonment results in
16 the child's death or great bodily harm, in which case he is
17 guilty of a second degree felony.

18 C. A parent, guardian or custodian who leaves an
19 infant less than ninety days old in compliance with the Safe
20 Haven for Infants Act shall not be prosecuted for abandonment
21 of a child.

22 D. Abuse of a child consists of a person knowingly,
23 intentionally or negligently, and without justifiable cause,
24 causing or permitting a child to be:

25 (1) placed in a situation that may endanger

underscored material = new
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1 the child's life or health;

2 (2) tortured, cruelly confined or cruelly
3 punished; or

4 (3) exposed to the inclemency of the weather.

5 E. Whoever commits abuse of a child that does not
6 result in the child's death or great bodily harm is, for a
7 first offense, guilty of a third degree felony and for second
8 and subsequent offenses is guilty of a second degree felony.
9 If the abuse results in great bodily harm or death to the
10 child, he is guilty of a first degree felony.

11 F. Evidence that demonstrates that a child has been
12 negligently allowed to enter or remain in a motor vehicle,
13 building or any other premises that contains chemicals,
14 materials or equipment used or intended for use in the
15 manufacture of a controlled substance shall be deemed prima
16 facie evidence of abuse of the child.

17 [~~E.~~] G. A person who leaves an infant less than
18 ninety days old at a hospital may be prosecuted for abuse of
19 the infant for actions of the person occurring before the
20 infant was left at the hospital. "

21 Section 2. EFFECTIVE DATE. --The effective date of the
22 provisions of this act is July 1, 2004.